REMARKS

The Examiner has rejected claims 7-8 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 7-8 are also rejected under § 103(a) as being unpatentable over Poole U.S. Patent No. 5,035,757 and McCulloch U.S. Patent No. 3,725,154.

Rejections Under § 112, 2nd Paragraph

Claim 7 is amended herein to recite the oxidizer agent using markush language, and as amended, Applicants believe there is no inconsistency in the scope. It is therefore requested that the rejection of claim 7 under § 112 be withdrawn.

Claim 8 is amended to recite which compounds are the primary reaction products, and which reaction products are limited to amounts that are not health-endangering, as defined by MAK and/or TLV values. As these are industry standards for determining toxic limits for combustion reaction products, one skilled in the art is capable of determining the metes and bounds of the claims. While these values may be subject to change, it is asserted that at any point in time, the values are fixed and thus definite. Variability in a claim term is not *per se* indefinite, and the term should not be held indefinite where one skilled in the art is capable of understanding the limits. It is therefore requested that the rejection of claim 8 under § 112 be withdrawn.

Rejections Under § 103 over Poole in view of McCulloch

With respect to the rejection under § 103, Applicants traverse. Claim 7 recites a composition using "consisting essentially of" as the transitional phrase. As is clear from Applicants specification, and as more specifically set forth in the dependent claims, Applicants specific components are selected to prevent health-endangering concentrations of toxic reaction products upon combustion, a problem with which Poole is not seemingly concerned. Poole recites a laundry list of components with no rational basis from which one skilled in the art could pick and choose components to arrive at Applicants invention. From Poole's laundry list, one could further select components that are precluded from Applicants claim, such as perchlorates, and only with the benefit

of hindsight and using Applicants disclosure as a blueprint would one skilled in the art pick and choose the specific elements of the claimed invention. Such hindsight analysis is forbidden, as is well established.

Examiner combines the flawed Poole reference with McCulloch, which further leads one skilled in the art away from the claimed invention. McCulloch discloses a propellant composition that is based on a perchlorate primary oxidizer, and in the example provided, HCl is exhausted as a reaction product at a significant concentration of 11.10 mol percent. As detailed in Applicants specification, chlorine compounds produced from chlorate and perchlorate components are toxic and should be avoided. As such, these compounds are precluded from the scope of Applicants claims, by virtue of the "consisting essentially" of language, and explicitly in new claims 14 and 15.

Nothing in the combination of Poole and McCulloch would lead one skilled in the art to specifically select a peroxide oxidizer in combination with the claimed tetrazole or tetrazole derivative, and to further use ferrocene as a catalyst for that particular fuel/oxidizer combination. Poole only includes peroxides in a long laundry list and provides no specific example using peroxide. McCulloch does not disclose any of the fuel or oxidizer components presently claimed and thus does not teach or suggest the suitability of ferrocene as a catalyst for those fuel and oxidizer components. It is asserted that the rejection is based on picking and choosing random elements from Poole and McCulloch, and piecing them together with the benefit of forbidden hindsight analysis based on Applicants disclosure, which rejection cannot stand. As there is no proper *prima facie* case of obviousness, Applicants respectfully request that the rejection under § 103 be withdrawn.

Conclusion

In view of the foregoing amendments to the claims and remarks made herein, Applicants believe this application is in condition for allowance. If the Examiner believes any detailed language of the claims requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this Amendment. If any additional charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

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